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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,794	01/16/2004	Ari J. Stangler	42973.8001.US00	8278
34055	7590	05/06/2005	EXAMINER	
PERKINS COIE LLP POST OFFICE BOX 1208 SEATTLE, WA 98111-1208			AMERSON, LORI BAKER	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/759,794	STANGLER, ARI J.	
	Examiner	Art Unit	
	L. Amerson	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: page 3, paragraph [0010], "support n use" should read –support in use--.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 1 and 4 are objected to because of the following informalities:

a. Claim 1, line 5, "wedge-shaped based" should read –wedge-shaped base-;

b. Claim 4 is objected to under 37 CFR 1.75(c) as being in improper form because a claim cannot depend from itself. See MPEP § 608.01(n).

Accordingly, the claim not been further treated on the merits.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

c. Claims 1-3, 6-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox in view of Colavito et al and Clark. As to claim 1, Fox discloses a support comprising a wedge-shaped base a head/neck pillow on the base (fig. 3B) but does not disclose a cover and handle. Colavito shows a cover (fig. 5) around the base and Clark discloses a handle attached to a cover (18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fox in view of the teachings of Colavito and Clark and cover the pillow for protection and employ a handle for easy transport. As to claim 2, Clark comprising a pocket (54) on the cover. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fox in view of the teaching of Clark such that a pocket is useful for storage. As to claim 3, Fox has a first foam and the pillow is a second foam. As to claim 9, the limitation has not been given patentable weight because the

recitation is purely functional in nature and does not recite any structure. As to claims 10-11, Colavito shows the ratios as claimed and zippers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fox in view of the teaching of Colavito such that zippers are useful to remove the cover for washing purposes or to change. Regarding the ratios, Furthermore, absent a teaching as to criticality that the ratio to height and length be 1.5 to 1 to 3:1, this particular agreement is deemed to be known by those skilled in the art since the instant application and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement. In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7,9 (CCPA 1975).

d. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, Colavito et al and Clark as applied to claim 1 above and further in view of Chambers. As to claim 5, Chambers teaches a spandex cover (0037) on the pillow. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fox in view of the teaching of Chambers such that a spandex cover provides additional comfort and flexibility to covering a pillow.

e. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, Colavito et al and Clark and further in view of Pearce. See the paragraph above for claim 1. Regarding the language, "for floor exercises or stretching" the recitation has not been given patentable weight because the limitation is purely functional in nature and does not recite any structure. Additionally, Pearce

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teaches the head/neck pillow comprising memory foam. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fox in view of the teaching of Pearce such that a memory foam provides additional comfort and flexibility to a user while resting on a pillow.

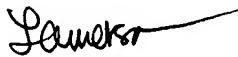
f. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, Colavito et al, Clark and Pearce and further in view of Zheng and Chambers. Zheng teaches the cover comprising Nylon [0028] and Chambers teaches the pillow comprising Lycra [0037]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fox in view of the teachings of Zheng and Chambers such that a nylon and lycra provide additional comfort and flexibility to a user while resting on a pillow.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



L. Amerson